Calendar No. 959

97TH CONGRESS, 2d Session | SENATE | REPORT No. 97-668

PROVIDING FOR THE REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASE NUMBERED NM-A26947 (OKLAHOMA)

NOVEMBER 15, 1982.—Ordered to be printed

Filed, under authority of the order of the Senate of OCTOBER 2 (legislative day, SEPTEMBER 8), 1982

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1908]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1908) to provide for the reinstatement and validation of United States oil and gas lease NM-A26947 (Oklahoma) having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

The amendments are as follows:

1. On page 1, line 9 delete the words "oil and" and insert in lieu thereof "oil or".

2. On page 2, line 1 delete everything after "Provided," and insert in lieu thereof the following:

> That the recordholder of oil and gas lease number NM-A26947 (Oklahoma) shall, within thirty days of receipt of notice from the Secretary as provided by section 2 of this Act, tender payment of the amount of rental, royalties and interest due.
>
> "Sec. 2. Within ninety days of enactment of this Act the Secretary of the Interior shall notify the recordholder of oil and gas lease number NM-A26947 (Oklahoma) of the amount of rental and royalties, together with interest thereon, due the United States as determined by the Secretary of the Interior. The interest to be charged shall be determined in consultation with the Secretary of the Treasury and shall reflect the prevailing interest rates over the period of time during which royalties were due the United States but were not paid.

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PURPOSE

The purpose of S. 1908 is to provide for the reinstatement and validation of United States oil and gas lease numbered NM–A26947 (Oklahoma).

BACKGROUND AND NEED

The bill would reinstate a competitive oil and gas lease issued to Monsanto Corp. which was automatically terminated under section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188). This section provides that an oil and gas lease shall be automatically terminated in the event the lessee fails to pay the annual rental amount on or before the anniversary date of the lease, with the possibility of reinstatement under certain circumstances if full payment is made within 20 days after the anniversary date.

The Congress in 1954 enacted Public Law 83–555, which amended the Mineral Lands Leasing Act of 1920 to provide for the automatic termination of a federal oil and gas lease in those instances where the lessee failed to pay the lease rental amount on or before the anniversary date of the lease. The law provided no discretion to the Secretary of the Interior to reinstate a lease. Implementation of the law resulted in the termination of a substantial number of oil and gas leases for late or incorrect rental payments, which led to the introduction of numerous private and public relief bills seeking reinstatement.

In 1970 Congress enacted Public Law 91–245 to reduce the number of public and private relief bills being introduced in Congress by amending the Mineral Lands Leasing Act to provide the Secretary with limited authority to reinstate oil and gas leases automatically terminated by Section 31 of the Act (30 U.S.C. 188). The Secretary under Public Law 91–245 was given discretion to reinstate any lease terminated for failure to pay rent when the full rental amount is paid within 20 days after the anniversary date if the failure to pay on or before the anniversary date was either justifiable or not due to lack of diligence by the lessee (30 U.S.C. 188). In enacting Public Law 91–245, the Congress recognized that the limited discretion given to the Secretary would not provide relief in all deserving cases, and contemplated that private legislation would continue to be necessary in some instances (see H. Rept. 91–1005, April 14, 1970).

Federal oil and gas lease numbered NM–A26947 covering 160 net acres in Roger Mills County, Okla., was a competitive lease issued on January 1, 1976 for a primary term of 5 years. A two year extension to the lease was available as provided by the Mineral Lands Leasing Act (30 U.S.C. 226), if the drilling was commenced prior to the end of the primary term and diligently prosecuted and the annual rental payment was timely paid. The term of the lease would also be extended for as long as oil or gas was produced.

Monsanto Corporation paid a bonus of $32,019.20 for the Government's 50 percent interest in the mineral rights of the involved land.

Under a farmout agreement Toklan Oil Corporation became the operator under the lease. The lease was communitized under a communitization agreement approved December 11, 1980. Drilling on the lease began prior to the end of the primary term of both leases, and was diligently pursued thereafter. A well was completed on the private portion of the unit and production was obtained in May 1981. Production for the first month was metered at 85,799 mcf per day.

Because drilling began prior to the lease expiration date and oil and gas in paying quantities were found, the lessee was entitled to an extension of his lease term. However, due to an inadvertancy, the annual lease payment of $320 due December 31, 1980 for the six lease year was not paid and the lease was held to have terminated by operation of law (30 U.S.C. 188) on January 1, 1981.

The operator under the communitization agreement stopped production at the well when an accident caused the well to be shut down. Before production stopped, the operator accrued at least $500,000 worth of production from the well. However, no royalties have been paid the United States although it is estimated that the royalty due the United States under the lease is about $62,000.

The expenses for the drilling and completion of the well on the lease were approximately $1,018,600.

The Committee considers reinstatement to be justified in this case for two reasons. First, the failure to pay the annual rental was inadvertent. Second, unless the lease is reinstated, Toklan Oil Corporation, the operator under the lease, will be unable to realize the full benefits of its investment efforts to find a new oil and gas reserve. Toklan has expended $1,018,600 and has developed a well capable of producing an estimated 85,799 mcf of gas per day. In light of these considerations, the Committee believes it would be inequitable not to allow the reinstatement of the oil and gas lease for failure to pay the annual rental of $320.

LEGISLATIVE HISTORY

S. 1908 was introduced on December 3, 1981, by Mr. Nickles (for himself) and Mr. Boren. A hearing was held by the Subcommittee on Energy and Mineral Resources on May 7, 1982. The Administration in testimony presented at the May 7 hearing supports S. 1908 if amended. At a business session on September 24, 1982, the Committee on Energy and Natural Resources ordered S. 1908, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on September 24, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 1908, as amended, as described herein.

The rollcall vote on reporting the measure was 18 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici	
Mr. Wallop*	
Mr. Warner	
Mr. Humphrey*	
Mr. Murkowski	
Mr. Nickles	
Mr. East*	
Mr. Heinz	
Mr. Jackson*	
Mr. Johnston*	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Matsunaga*	
Mr. Melcher*	
Mr. Bradley	

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

Amendment 1 is technical in nature.

Amendment 2 allows the Secretary of the Interior to collect the amount of rental, royalties and interest due the United States under the lease provisions.

COST AND BUDGETARY CONSIDERATIONS

The Committee does not anticipate any additionanl budgetary impact from the enactment of S. 1908, providing for the reinstatement and validation of United States oil and gas lease NM–A26947 (Oklahoma).

The measure does not authorize any additional budget authority. In the event that there are any administrative costs associated with the bill, the Committee intends that any expenses be absorbed within funds otherwise available to the Department of the Interior.

This bill is a private relief measure and therefore does not require a Congressional Budget Office estimate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1908. The bill is not a regulatory measure in the sense of imimposing Government standards or significant economic responsibilities on private individuals or business. No personal information will be collected in administering the provisions of the bill. Therefore, it would not impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 1908.

EXECUTIVE COMMUNICATIONS

Although, S. 1908 referred to the Department of the Interior and the Office of Management and Budget on March 18, 1982, for comment, no legislative reports were received. However, the following is the statement submitted by the Department of the Interior at the Subcommittee hearing on May 7, 1982, in which no objection was raised to the enactment of S. 1908.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 1908

I am pleased to appear here this morning to discuss S. 1908.

S. 1908 would reinstate and validate oil and gas lease NM–A26947 (Oklahoma) and would extend the lease for a period equal to the unexpired portion of the lease remaining on January 1, 1981, and so long thereafter as oil and gas is produced in paying quantities.

Within 30 days of enactment of the bill, the Secretary would be required to inform the last recordholder of the lease how much unpaid rental had accrued to the United States under the lease. Such accrued rental would have to be paid by the recordholder within 30 days of receipt of the notice.

We would have no objection to enactment of the bill, if the Congress finds that the lessee warrants special relief.

The lease in question was issued competitively to Monsanto Corporation for a 5-year period effective January 1, 1976. Monsanto paid a bonus of $32,019.20 for the Government's 50 percent interest in the mineral rights of the involved land. The remaining 50 percent is privately owned. The lease was communitized under a communitization agreement approved December 11, 1980. A well was completed on the private portion of the unit. Production was obtained in May 1981. Production for the first month was metered at 85,799 mcf per day.

Since drilling occurred prior to the expiration date of the lease, the lease was eligible for an extension for 2 years and so long thereafter as oil or gas is produced in paying quantities. However, payment for the sixth year's rent was required. That payment was not made, and the lease was held to have terminated by operation of law on January 1, 1981.

We have been advised that the operator under the communitization agreement stopped production when an accident caused the well to be shut down, and that the well will have to be redrilled. Prior to the end of production, the operator accrued at least $500,000 from the well. However no royalties have been paid to the United States. The $500,000 is currently being held in escrow. The Minerals Management Service of the Department of the Interior has estimated that the royalty due the United States under the lease is about $62,000. However, if the lease is not reinstated the United States should receive all funds achieved from production of the Federal

estate which accrued after December 31, 1980, the date the lease terminated, because the well was being operated without authorization.

The early communitization of the lease and the diligent operation of the well demonstrate the good faith of both Monsanto and the operator of the lease. Reinstatement of the lease would allow the operator to redrill the well and continue production.

We believe that, if the lease is reinstated, the reinstatement should be conditioned on the payment to the United States of all royalties presently owed the Government for production which occurred on the lease unit. We would also recommend that the bill be amended to allow the lease to be extended for so long as oil or gas is achieved in paying quantities, rather than oil and gas.

This concludes my statement. I will be happy to respond to your questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 1908, as reported.

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